

REMARKS

Claims 1 and 4-8 have been rejected under 35 USC 103(a) as unpatentable over Jammy in view of Chooi.

Claim 1 has been amended such that the filling has at least yttrium oxide. As neither Jammy nor Chooi disclose yttrium oxide as the filling, the claimed invention is not disclosed by the applied prior art. In fact, the Examiner states that Chooi discloses the material hafnium or zirconium oxide used as a high dielectric constant material in memories or capacitors. However, Chooi fails to mention yttrium. And, as the Examiner correctly notes, Jammy only discloses zirconium oxide and strontium titanium oxide, but "fails to disclose the high temperature unstable material is selected" from a group of materials.

With respect to new claim 11 (corresponding to original claims 1 and 8), recited is a dummy filling for the high temperature processes which allows use of a filling as a dielectric material that stays unstable for the high temperatures that are used for introducing a transistor in to the covering layer. The dummy filling is then removed from the trench and a storage dielectric is introduced in the trench as a filling. Hence, a trench electrode and capacitor are created. As seen in Figs. 3A to 4D (col. 5, ln. 55 - col. 8, ln. 23) in Jammy, a dummy filling is not used during the high temperature process, nor is it removed after the high temperature process while introducing a storage dielectric and trench electrode into the trench, forming a trench capacitor.

Since the recited structure is not disclosed by the applied prior art, claim 1 is patentable. Claims 3-7, depending from claim 1, are similarly patentable. New claim 11 is similarly patentable.

Claim 3 has been rejected under 35 USC 103(a) as unpatentable over Jammy in view of Chooi, further in view of Laibowitz. The rejection is respectfully traversed for the same reasons presented in the arguments above.

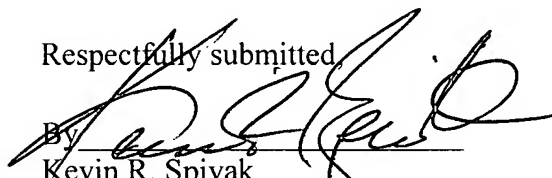
In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to

withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 543822008000.

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Respectfully submitted,



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